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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/522,730	02/01/2005	Andrea Bianco	36-1879	7612
23117 7590 07/21/2008 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
KANGARLOO, RAMTIN				
ART UNIT		PAPER NUMBER		
2619				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/522,730

## Applicant(s)

BIANCO ET AL.

## Examiner

RAMTIN KANGARLOO

## Art Unit

2619

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 02/01/2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

## DETAILED ACTION

## DETAILED ACTION

### *Double Patenting*

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claim 1 is rejected on the ground of nonstatutory double patenting over claim 1 of (U. S. Patent Application No. 2005/0271069) since the claims. Although the conflicting claims are not identical, they are not patentably distinct from each other because both the claims of instant application and the claims of parent application No. 2005/0271069 are almost the same in scope.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

3. The comparison of the two applications:

A method of allocating switch requests within a packet switch, the method comprising the steps of

(a) generating switch request data for each input port indicative of the output ports to which data packets are to be transmitted [**See claim 1, line 1-5, U.S. Patent No.**

**2005/0271069**];

(b) Processing the switch request data for each input port to generate request data for each input port-output port pairing [**See claim 1, line 6-8, U.S. Patent No.**

**2005/0271069**];

(c) generating an allocation plan for the switch for a frame of a defined number of packets, by a first stage in which allocation rules are applied such that the number of requests from each input port and to each output port is no greater than the defined frame length [**See claim 1, line 7-11, U.S. Patent No. 2005/0271069**];

Bianco at al. do not include one or more further stages in which allocation rules are applied to allocate requests remaining unallocated by the previous stage. However, it would have been obvious to one skilled in the art at the time of the invention to exclude one or more further stages in which allocation rules are applied to allocate requests remaining unallocated by the previous stage.

In addition, Omission of an element and its function in a combination in an obvious expedient if the remaining elements perform the same function as before. In re KARLSON (CCPA) 136 USPQ 184 (1963).

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Hill (Application publication No. WO01/67803A1).

Regarding **claim 1**, Hill discloses a method of allocating switch requests within a packet switch (See page 4, lines 12-14, allocating switch requests), the method comprising the steps of

(a) generating switch request data for each input port indicative of the output ports to which data packets are to be transmitted (See page 4, line 15, generating switch request);

(b) processing the switch request data for each input port to generate request data for each input port-output port pairing (See page 4, lines 16-17, processing switch request);

(c) generating an allocation plan for the switch for a frame of a defined number of packets, by a first stage in which allocation rules are applied such that the number of requests from each input port and to each output port is no greater than the defined frame length (See page 5, lines 3-7, allocation plan), and one or more further stages in

which allocation rules are applied to allocate requests remaining unallocated by the previous stage (See page 5, lines 19-20).

Regarding **claim 2**, Hill discloses a method according to claim 1, wherein unallocated switch requests are reserved for use in a subsequent stage of switch request allocation (See page 5, lines 19-20).

Regarding **claim 3**, Hill discloses a method according to claim 1, wherein at least one of the stages is a process comprises the steps of

(a) generating switch request data for each input port indicative of the output ports to which data packets are to be transmitted (See page 4, line 15, generating switch request);

(b) processing the switch request data for each input port to generate request data for each input port-output port pairing (See page 4, lines 16-17, processing switch request);

(c) generating an allocation plan by reducing the number of queue requests relating to each of one or both sets of ports by a value such that the number of requests relating to each member of the set or sets of ports is no greater than a predetermined frame value (See page 4, lines 21-29).

Regarding **claim 4**, Hill discloses a method according to claim 3, wherein the transformation of the request data is done by using the summations of the requests from each input port (See page 9, lines 1-3).

Regarding **claim 5**, Hill discloses a method according to claim 3, wherein the transformation of the request data is done by using the summations of the requests to each output port (See page 9, lines 1-3).

Regarding **claim 6**, Hill discloses a method according to claim 3, wherein the reduction of the request data from each input port and to each output port is done, in such cases where the number of requests is greater than the maximum capacity of the corresponding input port or corresponding output port, the reduction being by a factor selected such that the number of requests from the corresponding input port and to the corresponding output port is no greater than the maximum capacity of the corresponding input port and the corresponding output port (See page 4, lines 18-29).

Regarding **claim 7**, Hill discloses a method according to claim 3, wherein the reduction of the request data from each input port and to each output port is done using a common factor selected such that the number of requests from each input port and to each output port is no greater than the maximum request capacity of each input port and each output port (See page 4, lines 21-27).

Regarding **claim 8**, Hill discloses a method according to claim 3, wherein the reduction of the request data comprises (a) reducing the number of requests to each output port; and (b) reducing the number of requests in the resulting reduced request data that exceeds the capacity of each input port (See page 4, lines 24-29).

Regarding **claim 9**, Hill discloses a method according to claim 3, wherein the transformation of the request data comprises (a) reducing the number of requests from each input port; and (b) reducing the number of requests in the resulting reduced request data that exceeds the capacity of each output port (See page 4, lines 24-29).

Regarding **claim 10**, Hill discloses a method according to claim 3, wherein the process is iterative, and is repeated one or more times in respect of input ports and output ports for which capacity remains available after the previous iteration is complete (See page 5, lines 15-19).

Regarding **claim 11**, Hill discloses a method of packet switching wherein the input port-output port routing is allocated according to the method of claim 1 and the packets are switched on the basis of the allocated routing (See page 4, lines 30-32 and page 5 lines 3-7).



Regarding **claim 12**, Hill discloses a packet switch in which the input port-output port routing is allocated in accordance with the method of claim 1 (See page 5, lines 3-8).

Regarding **claim 13**, Hill discloses a packet switch according to claim 12, wherein packets are switched from an input port to a specified output port in accordance with the allocated routing (See page 5, lines 3-8).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMTIN KANGARLOO whose telephone number is (571)270-3452. The examiner can normally be reached on Mon to Fri 8 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chirag Shah can be reached on (571) 272- 3144. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2619

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/RAMTIN KANGARLOO/  
Examiner, Art Unit 2619  
July 10, 2008

/Chirag G Shah/  
Supervisory Patent Examiner, Art Unit 2619